

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

In re:

AEARO TECHNOLOGIES LLC, *et al.*,<sup>1</sup>

Debtor.

Chapter 11

Case No. 22-02890-JJG-11

(Jointly Administered)

3M OCCUPATIONAL SAFETY, LLC, *et al.*,

Plaintiffs,

vs.

THOSE PARTIES LISTED ON APPENDIX A  
TO THE COMPLAINT, *et al.*,

Defendants.

Adv. Proc. No. 22-50059

**JOINDER OF SEEGER WEISS LLP IN OBJECTION OF  
ALYSTOK, WITKIN, KREIS & OVERHOLZ PLLC TO  
DEBTOR'S REQUEST FOR A TEMPORARY RESTRAINING ORDER [DKT. NO. 16]**

Seeger Weiss LLP (“Seeger Weiss”), whose attorneys include Christopher A. Seeger, Co-Lead Plaintiffs' Counsel and member of Plaintiffs' Executive Committee, and David R. Buchanan, Co-Chair of the Plaintiffs' Steering Committee, in the Multidistrict Litigation styled *In re 3M Combat Arms Earplug Products Liability* Litigation, Case No. 19-2885 (N.D. Fla.), respectfully submits this joinder to the Objection to the Objection of Alystock, Witkin, Kreis & Overholz PLLC to Debtor's Request for a Temporary Restraining Order [Dkt. No. 16] (the “Objection”).<sup>2</sup>

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are set forth in the *Debtors' First Day Motion for Entry of an Order (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief*, filed contemporaneously herewith. The location of the Debtors' service address for purposes of these chapter 11 cases is: 7911 Zionsville Road, Indianapolis, Indiana 46268.

<sup>2</sup> Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to them in the Objection.

## **ARGUMENT**

1. Seeger Weiss, counsel to thousands of service members and veterans seeking redress in the MDL for 3M's CAEv2-related liability, including service members who won verdicts in bellwether trials in the MDL for tens of millions of dollars, joins in the Objection.

2. It was only last week that Seeger Weiss attorneys, with other MDL court-appointed leadership, were sitting across from counsel and representatives of 3M and Aearo in a mediation that 3M and Aearo were ordered to participate in by the MDL court in good faith. Despite now acknowledging that 3M had been planning this bankruptcy filing for, at least, months, representatives of 3M/Aearo breathed not a word – either to the MDL parties or the court – that a bankruptcy filing was imminent. Yet now, Aearo, in the litigation equivalent of a Pearl Harbor attack, seeks on less than 24 hours' notice to stay the claims of the more than 230,000 claimants in the MDL. If the Debtor is entitled to the relief it seeks at all (and it is not), there is no reason for the Court to grant such relief now, without affording the service members and veterans whose claims the Court is being asked to enjoin adequate notice and an opportunity to be heard.

3. As set forth in the Objection, no harm will befall the Debtor if this application is heard on appropriate notice and proper briefing. There are no trials in process or that are imminent in the MDL or elsewhere. Further, non-debtor 3M's continued participation in discovery in the MDL while these issues are briefed and heard over the coming days or weeks is hardly the type of "harm" warranting extraordinary relief.

4. Moreover, the Debtor's application implicates significant issues that require thoughtful briefing and/or discovery. Among those issues, in addition to those raised in the Objection, is the appropriateness of this Court's exercise of jurisdiction, and extension of the

automatic stay, to hundreds of thousands of claims against non-debtors on the basis of an indemnity agreement manufactured on the courthouse steps. Additionally, a question exists as to whether the reference should be withdrawn and whether it should be this Court or the district court (indeed, perhaps even the MDL court) who should decide the issues in this Adversary Proceeding for stay protection/injunctive relief.

### **CONCLUSION**

5. For these reasons, and those set forth in the Objection, the Debtor's request for a temporary restraining order should be denied and a briefing schedule and hearing on proper notice should be scheduled.

Respectfully submitted,

RUBIN & LEVIN, P.C.

Dated: July 27, 2022

/s/ Deborah J. Caruso

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*Pro Hac Vice to be Filed*

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 27, 2022 a copy of the foregoing *Joinder* was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on July 27, 2022, a copy of the foregoing *Joinder* was mailed by first-class U.S. Mail, postage prepaid, or electronic mail as indicated and properly addressed to the following:

None.

/s/ Deborah J. Caruso

Deborah J. Caruso